

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

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MAY, CHARLESTON, SC

Julius Pagus Lamont Jackson, ) Civil Action No.: 1:10-cv-3241-RMG

) Civil Action No.: 1:10-cv-3241-RMG

Plaintiff,

vs.

Sgt. Reaves and Warden Bernard McKie,

## Defendants.

## ORDER

Sgt. Reaves and Warden Bernard McKie,

### Defendants.

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This matter is before the court in Plaintiff's *pro se* civil action. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2)(e), DSC, this matter was referred to United States Magistrate Judge Shiva Hodges for pre-trial proceedings and a Report and Recommendation. On August 11, 2011, the Magistrate Judge issued a Report and Recommendation which recommends that this action be dismissed with prejudice based on Plaintiff's failure to prosecute the action. Plaintiff has failed to reply or object to the Report and Recommendation. As explained herein, this Court has reviewed the record for any errors of law and agrees with the Magistrate Judge's Report and adopts it as the Order of this Court.

## LAW/ANALYSIS

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71, 96 S.Ct. 549, 46 L.Ed.2d 483 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may “accept, reject, or

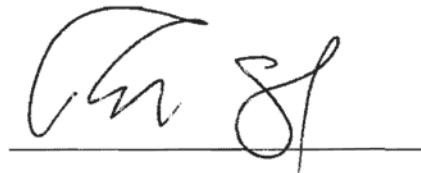
modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* In the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th Cir.1983).

After reviewing the record of this matter for any errors of law, the applicable law, and the Report and Recommendation of the Magistrate Judge, the Court agrees with the conclusions of the Magistrate Judge. Here, Defendants filed a motion to dismiss Plaintiffs' case based on a lack of jurisdiction on March 22, 2011. (Dkt. No. 18.) The Magistrate Judge issued an order on March 23, 2011, advising Plaintiff that he had until April 28, 2011 to file a response to Defendants' motion, and advising Plaintiff that his failure to respond to the motion may result in his case being dismissed. (Dkt. No. 20.) Notwithstanding the specific warning and instruction in the court's order, Plaintiff failed to respond to Defendants' motion to dismiss by April 28, 2011. On July 22, 2011, having still not received any response from Plaintiff, the Magistrate Judge issued an order directing Plaintiff to advise the court whether he wished to continue with the case by August 5, 2011, or else face dismissal for failure to prosecute. (Dkt. No. 24.) Plaintiff once again did not respond to the court's order. Thus, on August 11, 2011, the Magistrate Judge issued a Report and Recommendation which recommends that the court dismiss Plaintiff's action for failure to prosecute. (Dkt. No. 28.) Plaintiff has not filed any objections to this Report and Recommendation. It appears that the Plaintiff no longer wishes to pursue this action. As a result, this Court adopts the Magistrate Judge's Report and Recommendation as the order of this Court and incorporates it herein.

## CONCLUSION

Accordingly, the Complaint is **DISMISSED** *with prejudice* for failure to prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and the factors outlined in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir. 1982).

**AND IT IS SO ORDERED.**



Richard Mark Gergel  
United States District Court Judge

August 31, 2011  
Charleston, South Carolina